IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

CONTEMPT PETITION NO.122 OF 2007
IN
WRIT PETITION NO.215 OF 2004

Dr. Vimal Garg & Ors. ..Petitioners.
Vs.
Anil Mishra, Asst. Municipal
Commissioner and Others ..Respondents.

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Mr. Rakesh K. Agarwal i/b M/s. M.P. Vashi & Associates for the Petitioners.

Mr. A.Y. Sakhare, Senior Advocate with Ms. Shobha Ajithkumar for the Respondents.

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CORAM: **DR. D.Y. CHANDRACHUD, J.**

19th November, 2007.

P.C. :

1. An order was passed by the Division Bench on 22nd July, 2004 recording that it was the case of the Petitioners that they were entitled to protection as their structures existed before the cut off date. The Court observed that if that be so, it would be open to the Petitioners to move the competent authority which would be entitled to verify the claim of the Petitioners that they were in occupation of their tenements prior to 1st January, 1995. The competent authority was directed to dispose of the applications at

any rate not later than three months from the date of filing of such applications. Three of the Petitioners submitted their applications in August, 2004. In the affidavit in reply it has been explained that the application of the First Petitioner was submitted for verification as regards the authenticity of the documents to the Collector. In response to an enquiry received from the First Petitioner under the Right to Information Act, the Municipal Corporation intimated to him on 28th September, 2006 that he was not eligible for alternate accommodation. The Second and Third Petitioners were also informed by letters dated 1st September, 2007 that they were found not to be eligible for alternate accommodation. The Fourth Petitioner has already been offered alternate accommodation by the Slum Rehabilitation Authorities.

2. Undoubtedly, there was a delay on the part of the Municipal Corporation in dealing with the applications of the Petitioners. The fact, however, remains that the claims of the Petitioners have since been examined and the Petitioners have been found not to be eligible. The order of the Division Bench required the Municipal Corporation to examine the claims on the question as to whether the Petitioners were in occupation prior to

1st January, 1995. Having regard to the fact that the claims have now been examined, it would not be either appropriate or proper to initiate proceedings in the exercise of the contempt jurisdiction. The Municipal Corporation ought to have observed the time schedule laid down by the Division Bench and it would be only appropriate and proper that cognizance is taken by the Municipal Commissioner of the failure of the concerned authority to do so. A copy of the order shall be accordingly served personally on the Municipal Commissioner who shall take steps to take appropriate action against any officer found negligent in the performance of his duties particularly with a view to ensuring compliance with the time schedule prescribed by the Court. Insofar as the Petitioners are concerned, it is needless to add that they would be at liberty to initiate appropriate proceedings in accordance with law to impugn the final decision that has been arrived at by the Municipal authorities on the question of eligibility. With these observations the Contempt Petition is disposed of.